

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

OWEN W. BARNABY,

Plaintiff,

v.

Hon. Robert J. Jonker
Mag. Sally J. Berens
Case No. 1:22-cv-01146

NILES CHARTER TOWNSHIP, et al.,

Defendants.

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**DEFENDANTS NILES CHARTER TOWNSHIP'S AND NILES CHARTER TOWNSHIP
BOARD OF TRUSTEES' RESPONSE TO COURTS ORDER FOR RESPONSE**

In this action, Plaintiff asserts numerous claims against several Defendants, herein applicable, Niles Charter Township and the Niles Charter Township Board of Trustees. The other named Defendants in this case, the City of Benton Harbor and the State of Michigan filed motions to dismiss. (ECF Nos. 121 and 116.) The Township Defendants filed an answer (ECF No. 120) without asking for Summary Judgement. The Sixth Circuit “Disfavors sua sponte dismissal of complaints on the merits.” *Doe v. Oberlin Coll.*, 60 F.4th 345, 351 (6th Cir. 2023). As such, this Honorable Court has filed an Order on February 28, 2024 (ECF No. 140) in which the Township Defendants were to inform the Court if they elect to respond to the Court’s Order or file a motion for judgement on the pleadings pursuant to Federal Rule of Civil Procedure 12(c).

The Township Defendants hereby inform this Honorable Court that they will elect to file a motion for summary judgement. The Township Defendants further acknowledge that their Motion for Summary Judgement shall be filed within 28 days as specified in the Courts Order (ECF No. 140).

Respectfully Submitted,

s/ T. Seth Koches

T. Seth Koches (P71761)

Attorney for Township Defendants